

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

|                        |   |                   |
|------------------------|---|-------------------|
| RANDALL LEE WALKER     | § |                   |
| TDCJ-CID #0897951,     | § |                   |
|                        | § |                   |
| v.                     | § | C.A. NO. C-05-476 |
|                        | § |                   |
| WARDEN MENDOZA, et al. | § |                   |

**MEMORANDUM OPINION AND ORDER OF DISMISSAL**


The United States Magistrate Judge's Memorandum and Recommendation recommends that plaintiff's claims be dismissed as frivolous and for failure to state a claim on which relief can be granted (D.E. 9). Plaintiff has filed objections to the Magistrate Judge's recommendation (D.E. 15). In his objections, plaintiff re-states his claim that he lost his personal property without due process of law. Plaintiff's claims are foreclosed by the Supreme Court's decision in *Hudson v. Palmer*, 104 S.Ct. 3194 (1984). The *Hudson* Court held that even if a state prison is responsible for intentionally destroying a prisoner's personal property it does not violate the Fourteenth Amendment if the state has provided the prisoner with an adequate post-deprivation remedy. *Hudson*, 104 S.Ct. at 3205.

In this case, the Court finds that Texas has provided plaintiff with an adequate post-deprivation remedy to pursue his property claim. First, Texas has enacted a statute providing inmates with the right to recover monetary damages on a claim that the TDCJ lost or damaged property. Tex. Gov't Code § 501.007 (Vernon 2005). Second, Texas

courts recognize the tort of conversion. *See Winkle Chevy-Olds-Pontiac, Inc. v. Condon*, 830 S.W.2d 740, 746 (Tex.App.-Corpus Christi 1992, writ dismissed) (“A plaintiff who establishes conversion is entitled to return of the property and damages for loss of use during the tort-feasor's detention.”).

Having reviewed *de novo* the Magistrate Judge’s Memorandum and Recommendation and the pleadings on file, this Court hereby adopts as its own the findings and conclusions of the Magistrate Judge. Accordingly, plaintiff’s claims are dismissed as frivolous and for failure to state a claim on which relief can be granted. The Clerk is directed to provide copies of the Magistrate Judge’s Memorandum and Recommendation and this Memorandum Opinion and Order of Dismissal to the District Clerk for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler Texas, 75702, Attention: Betty Parker, Three-Strikes Administrator.

ORDERED this 28 day of July, 2006.

  
HAYDEN HEAD  
CHIEF JUDGE